Supreme Court, U.S.
FILED
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No. _____

In The

Supreme Court of the United States

DENNIS F. BRADLEY,

Petitioner,

v.

R. JAMES NICHOLSON, SECRETARY OF VETERANS' AFFAIRS,

Respondent.

Appeal from the United States Court of Appeals for the Federal Circuit in 05-7192, Judge Michel, et al.

WRIT OF CERTIORARI BY PETITIONER DENNIS F. BRADLEY

DENNIS F. BRADLEY
3146 River Branch Circle
Kissimmee, FL 34741
(407) 932-1716 (Florida)
(315) 946-9820 (New York)

Petitioner Pro Se

July 27, 2006

11 Centre Park
Rochester, New York 14614
(7001)
THE DAILY RECORD
Tel: (585) 232-6920
Fax: (585) 232-2740

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QUESTIONS PRESENTED

1. Is this Veteran in particular and Veterans, in general, being denied Due Process by the VA and the Legal System?

2. Is this Veteran in particular and Veterans, in general, being discriminated against under the XIV Amendment to the Constitution?

3. Must the law be followed, as required by 38 USC 1154(b)?

4. Is it legal for the Courts to declare the law mute in any case because a lower Court has decided the issue?

STATEMENT OF THE ISSUES

1. Was 38 USC 1154 applied in this case as required for a combat veteran?

2. Must the CAVC order 38 USC 1154 applied in this case or can it unilaterally dismiss the failure to do so as irrelevant?

3. Must it be and was 38 USC 1110 applied to this case as written?

4. Must it be and was 38 USC 7104 applied to this case?

5. Must it be and was 38 CFR 4.2 applied to this case?

6. Is "plausibility" a standard of evidence in the law?

7. Must it be and was 38 USC 5107 applied to this case?

8. Are 38 USC 7292 and 511 constitutional?

9. Was I denied "due process" in this case?

10. Was 18 USC 1962 and 9167 violated in this case?

LIST OF PARTIES

The caption contains the names of all parties to this proceeding.

PETITION FOR WRIT OF CERTIORARI

Dennis F. Bradley respectfully petitions for a writ of certiorari to review the judgment of the Court of Appeals for the Federal Circuit.

OPINIONS

The opinions of the Court of Appeals for the Federal Circuit entered May 12, 2006, the Court of Appeals for Veterans Claims entered August 1, 2005 and the Denial of Rehearing entered June 6, 2006 are attached in the appendix.

STATEMENT OF RELATED CASES

Case 94-306 Court of Appeals for Veterans Claims

Case 97-910 Court of Appeals for Veterans Claims

Case 01-2014 Court of Appeals for the Federal Circuit

Case 03-658 Court of Appeals for Veterans Claims

JURISDICTION

The opinion and judgment of the Court of Appeals for the Federal Circuit were filed May 12, 2006. The denial for rehearing was filed June 6, 2006. This request has been filed within 90 days of the Denial for Rehearing.

STATUTES INVOLVED

1. Due Process clause of the United States Constitution.

2. XIV Amendment to the United State Constitution.

3. 38 USC 1154(b): In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, **the secretary shall accept as sufficient proof of service connection of any disease or injury alleged to have incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease**, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and to that end, **shall resolve every reasonable doubt in favor of the veteran**. Service connection of such injury or disease may be rebutted by **clear and convincing evidence to the contrary**. The reasons for granting or denying service connection in each case **shall be recorded in full.**

4. 38 USC 1110 "For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in the line of duty, in the active military, naval or air service, during a period of war, the United States **will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated**, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs."

STATEMENT OF THE CASE

I hereby request a Writ of Certiorari based on the following errors made by the Court of Appeals for the

Federal Circuit in case number 2005-7192 dated May 12, 2006.

1. Denial of Due Process:

In the Court's decision it stated "Due Process includes that Veterans receive adequate notice of the judicial disposition of their claim and an adequate opportunity to challenge any adverse ruling." The Court then proceeded to ignore this exact set of facts in my Appeal based on the November 1967 VA physical and new diagnosis of Recurrent Lower Back Strain, minimal disability.

2. Discrimination under the XIV Amendment:

The Court states that "The Congressional position that Veterans' claims can receive no more than three levels of factual review does not deprive Veterans of equal protection, particularly in the context of Veteran-friendly presumptions. We conclude that the review procedure is not discriminatory treatment under the Constitution." In fact, Veterans are not given one level of review of the Facts. The VARO, BVA and the CAVC are all part of the Veterans Administration which is responsible for paying disability claims.

There is a direct conflict of interest on the part of the VA in this decision process and a Denial of Due Process to the Veteran in that the facts of the case are never considered by a disinterested party. Two or more lawyers for the BVA have been sent to prison for destroying evidence favorable to the Veteran. Time and time again the VA Regional Office has denied service connection for my claims even though every piece of evidence is either neutral or on my side. This hardly constitutes a review of the facts.

3. The Court found that they are prohibited from addressing my claim in regards to 38 USC 1154(b).

The Court incorrectly looked at this claim as being a question of how the law was applied and not if the law was applied, as required. The CAVC in the decision for case 03-658 (page 6) states "Thus, even had section 1154(b) been applied in this case, it would demonstrate only the in-service incurrence of his disability." The CAVC admits that 38 USC 1154(b) was not applied to the decision making process.

4. The denial of my claim under 38 USC 1110 based on the fact that the BVA had already addressed this issue in its 1997 decision.

FACTS

1. 38 USC 1110 has not been repealed. 38 USC 1110 does state "the United States will pay to any Veteran thus disabled compensation as provided in this subchapter."

2. Nowhere in the Constitution is the right given to any branch of the government to ignore the law for any reason, let alone the oversight of a doped up, disabled Veteran who is denied legal representation at this point in the claims process. The Supreme Court has held that the state must provide a lawyer for indigents both in the criminal and civil courts. The law denies legal representation to the very people that guarantee the Supreme Court's existence, **Veterans**.

REASONS FOR GRANTING THE WRIT

1. The VA benefits system has become an adversarial system and Veterans are denied representation at the first two levels for checking the facts.

2. Veterans are denied any review of the facts by a disinterested court.

3. Veterans deserve the same rights as all other citizens.

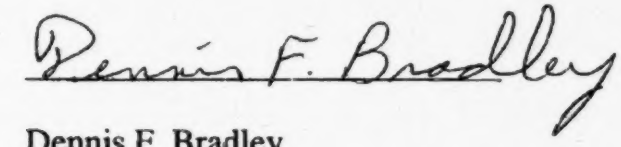
4. Failure to apply the law, by any court, cannot be tolerated.

CONCLUSION

Veterans are being denied their rights by the VA and the Supreme Court must take this chance to guarantee that the Veterans that guarantee the very existence of this court and this country are treated fairly under the law. The question of how much it will cost the Federal Government can no longer be the prime factor in this decision process.

Dated: June 27, 2006

Respectfully submitted,



Dennis F. Bradley
Petitioner Pro Se
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Kissimmee, FL 34741
(407) 932-1716 (Florida)
(315) 946-9820 (New York)